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SENATE

REPORT
No. 97-360

DRIVER SAFETY

APRIL 26 (legislative day, APRIL 13), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2158]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2158) to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any State in any fiscal year during which the statutes of the State include certain provisions relating to driving while intoxicated; to establish a national driver register; and for other purposes having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE

This legislation is intended to encourage and assist State and local efforts to reduce the loss of life and serious injury caused by drunk driving. The bill, as reported, provides financial incentives for States to enact a comprehensive two-tiered anti-drunk driving program consisting of certain basic elements. It would also help State licensing officials identify drunk drivers and other serious traffic offenders by upgrading the National Driver Register (NDR) from a slow, manual system to a quick, electronic system.

BACKGROUND AND NEED

Senator Pell introduced S. 671 and S. 672 on March 10, 1981. S. 671 provided for a cut-off of highway safety funding for any State which failed to adopt a comprehensive alcohol safety program, and S. 672

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upgraded the NDR to an electronic system. On March 2, 1982, Senators Danforth, Pell, Boschwitz, Packwood, Pressler, Glenn and Goldwater introduced S. 2158, and the Committee's Subcommittee on Surface Transportation heard testimony on all three bills on March 3, 1982. On March 29, 1982, the Committee ordered S. 2158 favorably reported with an amendment in the nature of a substitute.

The Committee has been concerned with the problem of drunk driving for several years. Hearings on drunk driving were held in the 96th Congress; the hearing in the 97th Congress on March 3, 1982 focused on three basic questions:

1. How serious is the drunk driving problem?
2. Have research and experience identified any specific measures to stop drunk driving?
3. If the problem is severe, and national in scope, and if remedial measures are available, is it appropriate for the Federal Government to encourage the use of specific measures to combat drunk driving?

The March 3, 1982 hearing record reflects a wide range of views concerning drunk driving. Testimony was received from citizens, experts on highway safety and alcoholism, State and local licensing and law enforcement officials, State task forces on drunk driving, the National Highway Traffic Safety Administration (NHTSA) and the insurance industry. S. 2158, as reported, reflects both the research of experts in the field and the experience of the States.

The Committee found that drunk driving is a grave national problem. According to NHTSA, of the 50,000 Americans who die in motor vehicle accidents every year, at least 26,000 are killed in drunk driving incidents, 125,000 are permanently disabled, and 650,000 people are injured so severely they must miss work for at least a few days. Witnesses at the March 3d hearing estimated the economic cost of these accidents at up to $17 billion dollars each year, yet only one out of 2,000 drunk drivers is arrested.

The second question focuses on what can be done to stop drunk driving. Experts have grappled with this issue for many years. States and local agencies have experimented with many different programs and penalties. As a result of this research and experimentation there is a consensus that the key elements contributing to deterrence of the drunk driver are the amount of enforcement and the speed and certainly of punishment. There is also a consensus that increasing the severity of punishment alone does not deter offenders and may be counterproductive because severe criminal penalties, without the additional elements described above, tend to increase plea bargaining, findings of not guilty and police leniency in enforcement of drunk driver laws.

In addition to the need to provide effective, comprehensive programs, as well as penalties and administrative procedures to deter drunk, experts testified there is also a problem with persons who, when their driving privileges are suspended or revoked in one State, can easily apply for and obtain a license in another jurisdiction. The National Driver Register operated by the Department of Transportation (DOT) exists to help the States identify those problem drivers holding licenses in several States, or drivers who have a history of serious traffic offenses. Presently, a number of States are reluctant

to participate in the National Driver Register because inquiries and responses about driving records are currently transmitted to and from the DOT by the U.S. mail, and are thus subject to delays of up to 2 weeks. The Committee found an urgent need to update the present system to provide for immediate electronic access to and referral of information. Without this upgrading, the number of States participating in the Register will diminish to the point that the system will be totally ineffective. A computerized Register will enable States to send and receive driver information within minutes. Keeping problem drivers from "State-hopping" contributes to the effectiveness of drunk driving and other highway safety programs. Title II of S. 2158 as reported address the need to keep problem drivers off the road.

Highway safety experts were in agreement that if the carnage on the highways is to be reduced, anti-drunk driving legislation, improved law enforcement and enhanced driver record keeping will be required.

The third question is whether the Federal Government has an appropriate role to play in encouraging States to employ the specific anti-drunk driving measures identified by the Committee as forming the basis for a comprehensive, all-out attack on this problem. There was general agreement from the highway safety community that the Federal Government could play a pivotal role in galvanizing a nationwide all-out attack on the problem.

As mentioned previously, accidents involving drunk drivers cost our society up to $17 billion each year in medical, rehabilitation, and insurance costs, property damage, lost work income and tax revenues as well as police and emergency vehicle services. A significant amount of this total cost is borne by the Federal Government through Medicaid payments, rehabilitation programs and lost tax revenues. If drunk drivers could be deterred from operating motor vehicles, the savings to the Federal Government as well as society in general would be enormous.

In 1966, Congress enacted the Highway Safety Act of 1966 directing the Secretary of Transportation to issue standards for State highway safety programs and provide grants-in-aid to assist the States in the implementation of the State's highway safety program. Funding appropriated under the act has been used by States to establish alcohol countermeasure programs enabling State and local authorities to update their programs by using modern chemical Blood Alcohol Content (BAC) tests, by expanding enforcement, by developing new arrest procedures, and by expanding police training programs. A total of approximately $93 million in Federal Highway Safety grant monies will be distributed to the States in fiscal 1982. In past years these grants have been used to bring about substantial improvements in highway safety. For example, the Director of Alcohol Countermeasures and Police Traffic Services for the District of Columbia Police Department testified at the March 3, 1982, Senate Commerce Committee hearing that the District of Columbia has recorded the lowest traffic death rate among the 50 States. He credited achievement of this success primarily to the use of Federal Highway Safety funds.

The Committee has no doubt that drunk driving can be dealt with only by State and local officials in the context of their overall law enforcement responsibilities. Although in recent months dozens of

legislative proposals have advanced in various State legislatures, the Committee found that the Federal Government should assist and encourage State efforts by offering significant financial incentives to States which are prepared to enact an all-out two-tiered, comprehensive attack on the problem.

S. 2158, as reported by the Committee leaves States free to choose whatever course they prefer while strongly encouraging a comprehensive solution to the drunk driving problem.

Title I: Incentive Grants

The incentive grant program consist of two tiers. The first tier is to get drunk drivers off the road.

SUSPENSION OF DRIVER'S LICENSE

"Deterrence" of drunk driving consists of two basic notions. The first is the broad perception on the part of the driving population as a whole that strong sanctions against drunk driving are in existence in all States and will be surely and promptly applied if one is apprehended while driving while intoxicated. The second notion is the concept of applying specific measures against particular offenders to ensure that their conduct is not repeated. S. 2158, as reported, is designed to encourage States to use their most effective tools to enhance both general and specific deterrence.

Historically, license revocation has been treated as a discretionary criminal sanction. The Committee concluded that license revocation is a highly effective deterent against drunk driving that should not be used exclusively as a criminal penalty imposed only after lengthy court proceedings. The Committee is not aware of a single jurisdiction where the opportunity to operate a motor vehicle is granted as a matter of right. In fact, most jurisdictions, in recognition of drunk driving's serious threat to public safety, require the prompt suspension of any driver's license where the driver refuses to submit to a chemical test to determine whether he is intoxicated. Oddly enough, only a handful of States require revocation where a driver submits to a test and is determined to be intoxicated.

Even before the United States Supreme Court upheld administrative license suspensions without a presuspension hearing, Minnesota enacted a law under which a law enforcement officer who upon his determination that a driver is drunk takes the driver's license and reports the chemical test results to the Minnesota Commissioner of Public Safety, who in turn notifies the driver of the suspension of his driving privileges and informs him/her of his right to a postsuspension review. The committee, in S. 2158, endorsed wider use of the prompt license suspension. Under S. 2158, as reported, the Secretary of Transportation is directed to find that a State has complied with this element of the incentive grant program when the State mandates the prompt administrative suspension of a license upon receipt of a law enforcement officer's submission of chemical test results showing that an individual was driving while intoxicated. For purposes of determining compliance with this element of the program, the Secretary need not consider the forum for post-suspension review (i.e.,

whether the State allows a person to argue his case for reinstatement before an administrative, as opposed to a judicial, official) or whether it requires the law enforcement officer to take the driver's license immediately or allows the substitution of the license with a temporary permit effective for one week or less. The key is that, within a matter of days after a drunk driver has been apprehended, his license has been suspended for at least 90 days for the first incident and 1 year for the second, unless and until the suspension has been challenged successfully in a post-suspension hearing.

IMPOUNDMENT

The Committee recognizes that many drunk driving offenders continue to drive even after their licenses have been suspended or revoked. Moreover, it is not the license, but rather the combination of the drunk driver and the automobile which is a menace to society.

Under S. 2158, the second element of the incentive grant program is to require the separation of the driver from the automobile for at least 90 days whenever the driver is apprehended operating a motor vehicle after his license has been suspended because of drunk driving. The Committee found that such an approach would force offenders to abide by license suspensions and would be a particularly effective means of keeping repeat offenders off the highways.

The Second Tier is a Comprehensive Alcohol Traffic Safety Program.

COMPREHENSIVE ALCOHOL TRAFFIC SAFETY PROGRAM

There are five specific, basic steps a State must take before it is allowed to claim an incentive grant, including (1) acceptance of a .10 blood alcohol content test result as *per se* evidence of intoxication; (2) a mandatory minimum 48 consecutive hour jail term for those convicted of drunk driving in a criminal proceeding twice within 5 years; (3) enhanced anti-drunk driving enforcement efforts; (4) alcohol treatment programs; and (5) a driver recordkeeping system designed to identify repeat offenders.

ACCEPTANCE OF .10 BAC TEST RESULT

S. 2158, as reported, defines "intoxication" to mean the presence of a .10-percent blood alcohol content level in the driver as determined by a standard chemical test. At present, 20 States accept such a test result as *per se* evidence of intoxication in a criminal proceeding. Every State except Maryland gives at least presumptive weight to a .10 or lower test result.

Under S. 2158, as reported, a State would have to adopt a minimum .10 standard for the purposes of both administrative license suspension and criminal conviction before it could claim an incentive grant. Drunk driving statutes satisfying this provision would incorporate the .10 standard as *per se* evidence in criminal and administrative proceedings.

Generally speaking, a .10 BAC results when a person weighing 180 pounds or less consumes approximately 4 ounces of alcohol within 1 hour.

MANDATORY 48 CONSECUTIVE HOUR JAIL TERM FOR SECOND CRIMINAL OFFENSE

The Committee requires that the States comprehensive alcohol traffic safety program provide that repeat offenders should receive a mandatory jail sentence of at least 48 consecutive hours and that the execution of this sentence may not be suspended or made probational in order for the States to satisfy this requirement of S. 2158, as reported.

IMPROVED ENFORCEMENT

Before they can be dealt with, drunk drivers must be apprehended. Many States, as a result of the public outcry over the drunk driver problem, have stepped up their efforts to patrol the highways and catch offenders before they cause serious accidents. States which improve their efforts to increase enforcement of drunk driver laws would meet this element of the incentive grant program.

ALCOHOL TREATMENT PROGRAMS

The fourth major element of a comprehensive alcohol traffic safety program is the establishment of alcohol treatment programs. Such programs should be developed in conjunction with the State agency responsible for the administration of alcohol abuse and alcoholism prevention, treatment and rehabilitation activities. The States should consider the use of presentence screening and assessment to identify individuals who are problem drinkers or who suffer from the disease alcoholism and to refer them to local treatment programs and facilities. States should also strongly consider the inclusion of alcohol abuse prevention and education information in driver education programs. Moreover, criminal justice personnel should be educated about and trained to deal with alcoholism, alcohol abuse, and other alcohol-related problems.

IMPROVED DRIVER RECORD KEEPING

The fifth required element of the alcohol traffic safety program is a driver record system which identifies repeat offender drunk drivers and is readily accessible to the State courts. The Committee emphasizes the importance of identifying repeat offenders, and believes a portion of each incentive grant should be used to insure that accurate accessible driver records are maintained which reflect drunk driving convictions and other serious traffic offenses.

Legislative History

Senators Danforth, Pell, Boschwitz, Pressler, Glenn, and Goldwater introduced S. 2158 on March 2, 1982. S. 2158 and two similar

bills introduced by Senator Pell, S. 671 and 672, were the subject of a hearing before the Surface Transportation Subcommittee on March 3, 1982. At the hearing the Committee received testimony from the administration and a wide range of interested parties including insurance and safety groups, citizen groups, driver license officials, State representatives, labor and the trucking industry.

On March 29, 1982, the Committee ordered S. 2158 reported with an amendment in the nature of a substitute.

SUMMARY OF MAJOR PROVISIONS

Title I

Title I provides incentive grants to States which enact a comprehensive, two-tiered anti-drunk driving program consisting of the following basic elements:

1. Automatic 90 day administrative suspension of driver's license for the first drunk driving incident and 1 year suspension for the second or subsequent incident;
2. A 90 day minimum impoundment of any motor vehicle driven by an individual whose license has been suspended for drunk driving;
3. A comprehensive alcohol traffic safety program which includes:
   - A. Acceptance of a blood alcohol content test result of .10 percent as per se evidence of intoxication;
   - B. A minimum 48 consecutive hour jail term for the driver convicted of a second or subsequent drunk driving offense within 5 years;
   - C. Alcohol treatment programs;
   - D. Improved enforcement; and
   - E. A driver record system which identifies repeat offenders.

Title II

As reported, Title II would update the current National Driver Register to an electronic system that would assist States in exchanging driving record information on problem drivers. Title II would:

1. Allow for electronic transmittal of information on problem drivers' records;
2. Provide for license suspensions, revocations and certain serious driving convictions to be listed in the National Driver Register;
3. Establish a pilot test program for State to test the effectiveness of an electronic Register; and
4. Authorize a total of $6.8 million between 1983 and 1985 for the National Driver Register.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 13, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2158, a bill to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any state in any fiscal year during which the statutes of the state include certain provisions relating to driving while intoxicated; to establish a national driver register; and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2158.

2. Bill title: A bill to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any state in any fiscal year during which the statutes of the state include certain provisions relating to driving while intoxicated; to establish a national driver register; and for other purposes.

3. Bill status: As ordered reported by the State Committee on Commerce, Science, and Transportation, March 29, 1982.

4. Bill purpose: Title I of S. 2158 establishes an incentive grant program for states to develop and implement strict driving-while-intoxicated statutes. States would receive additional highway safety incentive grant funds if they enact model drunk driving laws that include at the least a ninety-day automatic suspension of a driver's license for failing a chemical sobriety test, a one-year license suspension for repeat offenders, automatic vehicle impoundment during any period for which the individual's motor vehicle operator's license or permit is suspended, and a minimum forty-eight-hour jail term for second or subsequent offenses of drunk driving statutes. In addition, the state's program must include alcohol treatment programs, traffic safety programs to enforce drunk driving laws, and a driver record system capable of identifying repeat offenders. There is authorized to be appropriated for the incentive grants $25 million for fiscal year 1983 and $50 million for fiscal year 1984.

Title II of the bill authorizes funds for the establishment of a National Driver Register and the funding of demonstration projects for testing the capability, feasibility, and accessibility of register information and its transmission interstate. There is authorized to be appropriated $2 million for 1983 for establishing the National Driver Register and $1.2 million for 1983, $1.5 million for 1984, and $2.1 million for 1985 for carrying out responsibilities associated with the register program and pilot demonstration.

5. Cost estimate:

	Millions
Fiscal year:	
1983	$28.2
1984	51.5
1985	2.1
1986	-----
1987	-----
Estimated outlays:	
Fiscal year:	
1983	6.9
1984	14.7
1985	18.0
1986	18.2
1987	16.0

The costs of this bill fall within budget function 400.

6. Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized for fiscal years 1983, 1984, and 1985 will be appropriated. The authorization levels are those stated in the bill and are composed of the amounts listed above. To estimate outlays, disbursement rates based on similar types of safety grant programs were applied to the authorization levels.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

Title I of S. 2158, as reported, provides for an incentive grant to encourage States to adopt stricter laws on drunk driving. All States currently have laws on drunk driving therefore it is not likely that Title I of the legislation will result in increased Federal or State regulation. It is possible that States will adopt administrative streamlined procedures for license revocation thus reducing lengthy judicial proceedings. Title II of the bill would upgrade the current National Driver Register from a mail system to an electronic system. States are not required to participate in the updated National Driver Register but may if they so choose. Initially, it will be necessary for the U.S. Department of Transportation to promulgate rules to implement the National Driver Register and to transfer certain information in the current National Driver Register to the electronic National Driver Register but once the system is in place the regulatory impact should be less burdensome and involve less federal participation than the current Register.

A. NUMBER OF PERSONS COVERED

Under S. 2158, as reported, if a State qualifies for an incentive grant, the drivers in that State will be covered by the new State law. The law enforcement community and licensing agencies will also initially be affected by new license revocation, vehicle impoundment and criminal

penalties for drunk driving. However, the purpose of this bill is to reduce the number of drunk drivers and drunk driving incidents, thus reducing State personnel needs.

Title II, once an electronic National Driver Register is set up, will reduce the number of personnel required to operate the National Driver Register. If States do increase their participation in the Register, more problem drivers will be in the Register and thus be affected by the Register.

B. ECONOMIC IMPACT

Title I of S. 2158 authorizes a total of $75 million out of the highway trust fund to be appropriated to States adopting the qualifying requirements of the Title. At the same time, S. 2158, as reported, is intended to reduce Federal, State, local and societal costs by up to $17 billion.

Title II authorizes $2 million to purchase the electronic equipment necessary to update the Register. Further the bill authorizes appropriations in the amount of $1.3 million in fiscal 1983, $1.5 million in fiscal 1984, and $2.1 million in fiscal 1985 to operate the National Driver Register. The National Driver Register currently requires approximately $1 million per year to operate.

C. PRIVACY

Title I will not affect any individual's privacy. Title II provides for driver record information to be released only for accident investigations or with the express permission of the record holder, and would therefore have a very minimal effect on individual's privacy.

D. PAPERWORK

No additional reporting requirements are imposed by Title I. Title II requires the Secretary of Transportation to prepare a report on the operation of a pilot program, and on the extent and level of State participation in the National Driver Register. However, the overall effect of Title II would be to reduce paperwork, as once the electronic Register was in operation States would no longer be required to transmit to the Secretary information on all State drivers in the Register.

Section-by-Section Analysis

TITLE I—INCENTIVE GRANTS FOR STATES WITH STRICT DRIVING WHILE INTOXICATED STATUTES

Section 101

This section amends section 402 of Title 23, United States Code by adding a new subsection (k) providing incentive grants for States with strict driving while intoxicated statutes.

Subsection k(1) of section 402 requires the Secretary to make an incentive grant to any State which complies with the requirements of paragraphs (2), (3), (4), and (5) of subsection (k). These paragraphs relate to automatic suspension or revocation of driver's license, impoundment of the motor vehicle for driving without a license when the license had been suspended for drunk driving and establishment of a comprehensive alcohol traffic safety program.

More specifically paragraph (k)(2) of section 402 requires a State, in order to receive an incentive grant, to require the prompt suspension of the motor vehicle operator's license of any individual whom a law enforcement officer of the State has probable cause to believe has committed an alcohol-related traffic offense, and (A) to whom is administered a chemical test to determine whether the individual was intoxicated while operating a motor vehicle and who is determined, as a result of such test, to be intoxicated; or (B) who refuses to submit to such a test. Such suspension shall be for a period of at least 90 days in the case of a first offender, and at least 1 year in the case of any repeat offender.

The subsection allows a State to set up either an administrative hearing or a judicial hearing in order to satisfy the constitutional requirement for due process. The key is that a State set up a process whereby a license is required to be suspended if a driver has been determined to be driving while intoxicated (.10 blood alcohol content level). It is important to note that the subsection does not require an arrest or a conviction in order to suspend or revoke the licence. The subsection also allows a State to adopt longer periods of time for suspension or revocation of the license.

Subsection (k)(3) further requires a State in order to receive an incentive grant under this subsection to require the impoundment for at least 90 days of any motor vehicle operated on a public road of the State by any individual whose motor vehicle operator's license is suspended or revoked under the laws of any State for driving while intoxicated. The purpose of this section is to force drivers to abide by license suspensions. Vehicles driven but not owned by such drivers are to be impounded but persons with a legal or equitable interest in the vehicle are entitled to due process of law in a past impoundment hearing. Where, for example, the vehicle was stolen and driven by one whose license has been suspended for drunk driving, the Committee would anticipate fairness to require the return of the vehicle to the owner. However, where an owner of a vehicle allows a family member whose license has been suspended to drive the vehicle, the Committee intends that vehicle be impounded. A motor vehicle that is made inoperable should be considered impounded for purposes of the subsection. For example, placing a "boot" on a car, like that frequently used in the the District of Columbia would be considered a valid means of impounding a motor vehicle.

Subsection (k)(4) requires a State which qualifies for an incentive grant to afford an individual whose license has been suspended or whose vehicle has been impounded an opportunity, consistent with due process, to show cause why the individual's license should not be revoked or suspended or the individual's vehicle impounded. This section recognizes and makes clear the Committee intent that where a State suspends a license or impounds the motor vehicle prior to a hearing, a hearing consistent with due process be afforded the affected individual. This section also reflects the Committee's conclusion that a post suspension or post impoundment hearing can be structured so as to be consistent with the due process required by the United States Constitution.

Subsection k(5) requires a State, in order to receive an incentive grant, to establish a comprehensive alcohol traffic safety program. Such a program shall consist of the following elements. First, any person driving a vehicle, when the percentage of alcohol by weight in the blood or breath of such a person is .10 of 1 percent or higher must be deemed to be driving while intoxicated for the evidentiary purposes of criminal and administrative proceedings. Second, any person convicted of driving while intoxicated more than once in a 5-year period shall be imprisoned for not less than 48 consecutive hours. This jail term is mandatory and may not be suspended or made probational. Third, the State shall require alcohol treatment programs. Fourth, traffic safety programs designed to improve enforcement of drunk driving laws. The fifth required element of the alcohol traffic safety program is a driver record system which identifies repeat offender drunk drivers and is readily accessible to the State courts. The Committee emphasizes the importance of identifying repeat offenders, and believes a portion of each incentive grant should be used to insure that accurate accessible driver records are maintained which reflect drunk driver convictions and other serious traffic offenses.

Subsection k(6) provides that the amount of the incentive grant payable to any qualifying State is equal to the amount apportioned to such State during such fiscal year.

Subsection k(7) provides that if the total amount of incentive grants payable to States under this subsection exceeds the amount appropriated for this subsection in any fiscal year, the Secretary shall distribute to each qualifying State its pro rata share. The Committee intends that the difference be made up to each State in moneys appropriated for this section in the following fiscal year or years.

Subsection k(8) requires that a State use the incentive grant to promote the purposes of section 402 of the Highway Safety Act of 1966, as amended.

Subsection k(9) defines the terms "intoxicated," "chemical test," and "public road." "Intoxicated" means that there is present in the blood or breath not less than .10 of 1 percent, by weight, of alcohol. "Chemical test" means any chemical test the use of which is expressly permitted by State statute or regulation for the purpose of detecting alcohol impairment.

Subsection k(10) authorizes for appropriation from the Highway Trust Fund $25 million for fiscal year 1983 and $50 million for fiscal year 1984 to carry out the purposes of subsection (k) of section 402.

Section 102

The provisions of new subsection (k) shall take effect on October 1, 1982.

TITLE II. TO PROVIDE FOR AN ELECTRONIC NATIONAL DRIVER REGISTER

Section 201

This title shall be cited as the National Driver Register Act of 1982.

Section 202

This section defines the terms used in the National Driver Register Act of 1982.

Section 203

This section establishes an updated, electronic National Driver Register (NDR) to assist States in rapidly changing driving record information on problem drivers. Once in full operation, the NDR will serve as an index which points inquiring States to those States which have taken driver licensing actions against the individual in question. Information will be kept in the NDR for 7 years or the length of time the record is kept in the reporting State, if shorter.

Section 204

Any State may participate in the National Driver Register by notifying the Secretary and agreeing to comply with the provisions of section 205; similarly any State can withdraw from the Register system. Regulations covering the participation agreements shall be drawn by the Secretary.

Section 205

The following license information will be contained in the NDR: license revocation, cancellation, denial or suspension for cause, conviction of drunk or drug-related driving; violations stemming from a fatal accident; reckless driving, hit and run or perjury in connection with the operation of a motor vehicle. Revocation or suspension for cause includes unsatisfied judgments, but excludes routine failure to pass a vision, written or driving test, and insurance lapses.

Section 206

Access to the NDR is limited to the States' chief driver licensing officials, Federal accident investigators and the individuals whose records are in the NDR. Individuals may request their record be sent directly to an employer or prospective employer. The information sent to the employer or prospective employer shall be made available to the employee or prospective employee.

Section 207

Four States will be chosen for a pilot demonstration program that tests the effectiveness of an electronic NDR. The Committee believes the success of a pilot program will encourage other States to buy the equipment needed to hook into the electronic NDR. The States that participate in the pilot program will, after completion of the program, help to evaluate the program's success. If the pilot is successful, those States will work to encourage other States to become a part of the electronic NDR.

Sections 209 and 210

A subcommittee of the Highway Safety Advisory Committee will directly advise the Secretary on the NDR's operation. The Secretary will submit a report to Congress reporting on the effectiveness of the NDR 4 years after enactment of this act.

Section 211

Authorization levels are set at $2 million for establishing the electronic NDR in fiscal year 1983 and $1.2 million for operation of the NDR in fiscal year 1983, and $1.5 million in fiscal year 1984, and $2.1 million in fiscal year 1985.

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CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

SECTION 402 OF THAT TITLE

SEC. 402. HIGHWAY SAFETY PROGRAMS

(a)-(j) * * *

(k)(1) The Secretary shall make an incentive grant to any State in the first fiscal year (or the first fiscal year following that year) during which there is in effect in such State, as determined by the Secretary, statutes of general applicability which comply with the requirements of paragraphs (2), (3) (4) and (5) of this subsection.

(2) Any statute adopted pursuant to paragraph (1) of this subsection shall require the prompt suspension of the motor vehicle operator's license of any individual whom a law enforcement officer of the State has probable cause to believe has committed an alcohol-related traffic offense, and (A) to whom is administered a chemical test to determine whether the individual was intoxicated while operating a motor vehicle and who is determined, as a result of such test, to be intoxicated; or (B) who refuses to submit to such a test. Such suspension shall be for a period of 90 days in the case of a first offender, and 1 year in the case of any repeat offender.

(3) Any statute adopted pursuant to paragraph (1) of this subsection shall also require the impoundment for at least 90 days of any motor vehicle operated on a public road of the State by any individual during any period for which the individual's motor vehicle operator's license or permit is suspended or revoked under the laws of any State relating to the operation of a motor vehicle while intoxicated.

(4) Where pursuant to such statute an individual's motor vehicle operator's license has been suspended, the State shall afford the individual an opportunity, consistent with due process, to show cause why the individual's license or permit should not have been suspended. Where pursuant to such statute any motor vehicle is impounded, the State shall afford any party with a legal or equitable interest in the vehicle an opportunity, consistent with due process, to show cause why the impoundment of such vehicle should cease.

(5) The State shall adopt a statute which establishes a comprehensive alcohol traffic safety program. Such program shall require—

(A) at a minimum, that any person found to be driving a motor vehicle on a public road, when the percentage of alcohol by weight in the blood or breath of such person is .10 of 1 percent or higher, shall be deemed to be driving while intoxicated, for purposes of such program;

(B) that any person convicted of driving while intoxicated more than once in any 5-year period be imprisoned for not less

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than 48 consecutive hours, and that the execution of such sentence shall be mandatory and not suspended or probational;

(C) alcohol treatment programs;

(D) traffic safety programs designed to improve enforcement of drunk driving laws; and

(E) a driver record system which identifies repeated offenders and is readily accessible to the courts in such States.

(6) The incentive grant payable to any State in a fiscal year under paragraph (1) of this subsection shall be—

(A) in an amount equal to the amount apportioned to such State during such fiscal year under subsection (c) of this section; and

(B) in addition to other funds payable to such State in such fiscal year under this section.

(7)(A) If the total amount of incentive grants payable to States under this subsection exceeds the amount appropriated for this subsection in any fiscal year, the Secretary shall distribute to each qualifying State an amount equal to the amount due the State under paragraph (6)(A) of this subsection, multiplied by the ratio of the total amount appropriated for this subsection to the total amount due the States under paragraph (6)(A) of this subsection.

(B) When a distribution is made pursuant to the provisions of subparagraph (A) of this paragraph, the Secretary shall, in the next fiscal year following the year in which such distribution occurs and to the extent funds are available, pay to each such State an amount equal to the difference between the amount which the State would have received under this subsection if such distribution had not occurred and the amount which the State received under such distribution. The Secretary shall make all such payments before making any other grant payable within that fiscal year under this subsection.

(8) The incentive grant payable to a State in any fiscal year may be used by such State only to promote the purposes of section 402 of this chapter.

(9) For purposes of this subsection, the term—

(A) "intoxicated" means that there is present in the blood or breath not less than .10 of 1 percent, by weight, of alcohol;

(B) "chemical test" means any chemical test the use of which is expressly permitted by State statute or regulation for the purpose of detecting alcohol impairment; and

(C) "public road" has the same meaning as provided in the fourth sentence of subsection (c) of this section.

(10) For purposes of this subsection, in addition to other funds authorized by this section, there are authorized to be appropriated from the Highway Trust Fund $25,000,000 for fiscal year 1983, and $50,000,000 for fiscal year 1984. Such sums shall remain available until expended.

SECTION 404 OF THAT TITLE

SEC. 404. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

(a) * * *

(b)(1) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in

the field of highway safety. The Committee is authorized [(1)](*A*) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommended to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and [(2)](*B*) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(2) The Committee shall establish a subcommittee to advise the Secretary concerning the operation of the National Driver Register established under the National Driver Register Act of 1982. The Committee shall submit to the Secretary an annual report regarding the subcommittee's activities during the year covered by the report.

(c)-(d) * * *

ADDITIONAL VIEWS OF MR. CANNON

Accidents due to drunk driving are a serious problem in this country today—over 25,000 deaths per year caused by drinking drivers. Everyone familiar with the magnitude of this problem is concerned and anxious to find a solution. Enforcement of driving standards is the primary responsibility of State and local governments, not the Federal Government. Therefore, I believe legislative initiatives should originate at those levels. I voted in favor of S. 2158; however, because the bill adopts an incentive rather than mandatory approach—providing additional section 402 moneys to States which adopt drunk driving statutes incorporating the requirements of the bill. The States are free to utilize different approaches, which are thought to be more effective, if they wish, but will not be entitled to section 402 incentive funds unless they adopt *all* of the elements of S. 2158.

My concern is that some States, such as Nevada, may have very strick drunk driving laws which are not identical to the Federal law. Indeed, it was pointed out by the author of the bill that at present no State would qualify for an incentive grant. In other words, not one of the 50 States has a statute which incorporates all of the elements required by S. 2158.

I am wary of Federal legislation which takes authority away from the States. In my opinion, Nevada has a tough drunk driving statute. It provides: for first offenders—mandatory attendance at classes on alcohol use and abuse, up to 6 months in jail, and license suspension for at least 30 days; for second offenders (within a 5-year period)—minimum *10* day jail sentence, a fine of $500 to $1,200, and license suspension of not less than 6 months. This statute incorporates some of the requirements of S. 2158 but not all of them—for example, it does not provide for vehicle impoundment; however, it also has stricter penalties than S. 2158 in some respects. In spite of the fact that this is a strict statute, Nevada would not qualify for an incentive grant. This is what concerns me. It was indicated at the markup that no State has ever had a statute like this one; therefore, we have no solid evidence that this particular combination is the magic one that will alleviate this problem.

I hope the sponsors of S. 2158 will develop a mechanism to accommodate the need to allow each State to benefit from this legislation by enacting drunk driving statutes which are as strict or stricter than S. 2158 if they so choose. I will work with them on this as the bill progresses through the Senate to conference with the House.

In a 1981 report done by H. Lawrence Ross [1] for the National Highway Traffic Safety Administration, Ross found that it is not the provisions of the particular drunk driving statute that are important in deterrence. The key factors are the level of enforcement and the per-

[1] "Deterrence of the Drinking Driver: An International Survey," H. Lawrence Ross, State University of New York at Buffalo.

ception by the drivers of the likelihood of being apprehended. The Ross report underscores the crucial role of State and local law enforcement in this area, regardless of the nature of the statute. The Ross report also calls into question the necessity of "toughening" the penalties for driving while intoxicated.

It is my hope that the increased attention given to this problem and the heightened awareness this bill may engender will help to change the public's perception of the chances of being apprehended and penalized for driving while intoxicated, and will help to encourage greater enforcement of drunk driving statutes, regardless of the penalties those statutes contain.

I fully support title II of the bill—the updating of the National Driver Register (NDR). The NDR, when fully operational will aid the States in their consideration of applicants for a driver's license. This function—that of serving as a national clearinghouse for information concerning problem drivers—is a role which can *best* (and only) be fulfilled by the Federal Government. I am hopeful that there will eventually be full participation by all 50 States, for it is only with 100 percent participation that the NDR can be most effective.

HOWARD W. CANNON.

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Calendar No. 513

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-361

COAST GUARD AUTHORIZATIONS ACT OF 1983 AND 1984

APRIL 26 (legislative day, APRIL 13), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2252]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2252) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill, as reported, is to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984 so that it will have the necessary funds for (1) the operation and maintenance of its multipurpose units and facilities; (2) the acquisition, construction and improvement of vessels, aircraft, shore facilities, and aids-to-navigation; (3) research and development, tests, and evaluation in programs directly related to the performance of Coast Guard missions; (4) retired pay, including payments for medical care of retired personnel and their dependents. In the area of personnel, the bill authorizes both military and civilian personnel ceilings for fiscal years 1983 and 1984, as well as average military student training loads. In addition, the bill provides for technical provisions regarding military personnel management. Several potential cost-saving measures are authorized, including the delegation of aids-to-navigation responsibilities to civilian employees or if advantageous, to private contractors. Regarding already-delegated vessel inspection responsibilities, private classification societies are required to maintain public records. Additional costsaving is sought by elimination of certain statutorily required annual reports to Congress.

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Background

The Coast Guard operates as a part of the Department of Transportation, with primary responsibility for, or assisting in the enforcing of, all applicable Federal laws on and under the high seas and waters subject to the jurisdiction of the United States, the promotion of safety of life and property in those areas, the maintenance of aids to maritime navigation, icebreaking, and engaging in oceanographic research.

Within the boundaries of its assigned duties, the Coast Guard has been charged in various statutes with specific responsibilities relating to the enforcement of the 200-mile exclusive fishery zone, the monitoring of foreign fishing fleet activities, the maintenance of necessary equipment designed to rescue persons and save property placed in jeopardy in maritime regions and otherwise where its forces are reasonably available, the maintenance of manned and unmanned aids to navigation along the coast and inland waterways, the review and approval of construction and alteration plans of commercial vessels, the establishment and oversight of standards for recreational boats, the conduct of polar and domestic icebreaking and oceanographic research, and the exercise of various marine environmental protection duties designed to minimize and abate pollution threats to the marine environment. The Coast Guard has also been charged with the safety of our ports and waterways through the operation of vessel traffic services and port safety controls while also regulating foreign and domestic vessels carrying oil or hazardous polluting substances. Finally, the U.S. Coast Guard, pursuant to title 14, United States Code, is an armed force, maintaining a readiness to operate as a service in the Navy, upon declaration of war or when the President otherwise directs. In addition, individual units operate with the Navy in time of national emergency.

To achieve these objectives, the Coast Guard has established seven missions or programs that are used as a basis for budgetary considerations. They are: Search and Rescue; Aids to Navigation; Marine Safety; Marine Environmental Protection; Enforcement of Laws and Treaties; Marine Science and Polar Ice Operations; and Military Readiness. The President has for fiscal year 1983 requested an average strength of approximately 36,677 active duty officers and enlisted personnel in addition to its civilian employees. The Coast Guard also maintains and operates various multimission vessels, aircraft, and shore facilities necessary to carry out assigned missions effectively.

LEGISLATIVE HISTORY

Traditionally, the Coast Guard has enjoyed strong bipartisan support in both the House and Senate, while receiving consistently weaker support in the executive branch. Actions in both the legislative and executive branch during the 97th Congress were no different.

During the 1st session of the 97th Congress, the Commerce Committee authorized, and Congress appropriated, a record amount of funding for the Coast Guard. The total authorization was $2.27 million. The committee focused special attention on the need to rapidly and dramatically improve the deteriorated physical plant of the Coast Guard,

and thus authorized $537 million for the acquisition, construction, and improvement (A.C. & I.) account. Prior to the Appropriations Committee consideration of the Commerce Committee's recommended authorization level, 32 Senators joined Senator Packwood in sending a letter to the chairman of the Transportation Subcommittee of the Appropriations Committee urging that a full $537 million be appropriated. While the Senate Appropriations Committee did provide substantial appropriations for the Coast Guard (including $537 million for the A.C. & L. budget) the final transportation appropriation bill which passed Congress and was signed by the President contained significantly lower funding with only $384 million for the A.C. & I. account. Further indication of Senate support of revitalization of the Coast Guard was the addition of $300 million to the Defense appropriations bill to be targeted for the A.C. & I. account of the Coast Guard, bringing the total fiscal year 1982 A.C. & I. appropriation to $684 million.

Despite this support, the Coast Guard suffered a financial shortfall in the Operations and Maintenance (O. & M.) account. In January 1982 plans were announced to close numerous search and rescue stations and administrative offices, decommission vessels, lay-up equipment, and eliminate 3,100 military personnel.

At the same time it became known that the Coast Guard would not be permitted to spend all of the money authorized and appropriated for A.C. & I. It is the view of the members of this committee that this refusal by the administration to spend monies authorized and appropriated in a manner directed by Congress is an intolerable rejection of express congressional intent.

In response to the proposed cutbacks in Coast Guard services, supplemental appropriation bills were introduced both in the House and Senate. This was followed by several hearings during which Senators and Congressmen made it abundantly clear to Secretary of Transportation Drew Lewis that reductions in funding and capabilities of the Coast Guard were severely opposed by Congress.

As a result, the Department of Transportation has supported certain emergency supplemental appropriations and has reversed many of the previously announced closures.

While the committee is pleased that the administration is becoming aware of the widespread congressional support for the Coast Guard, it is disturbed that the administration has not proposed adequate supplemental Coast Guard appropriations for fiscal year 1982 to cover military and civilian pay raises, training expenses for the Coast Guard Reserve, and a variety of other increased costs. The administration's statements to Congress indicate its support for only $124 million in supplemental appropriations, even though it has acknowledged that the Coast Guard needs $192 million in supplemental appropriations to maintain services at 1981 levels. In this committee's view the Coast Guard's threadbare situation prevents the absorption of $68 million in operating expenses without serious cutbacks in vital services.

The committee also strongly objects to the administration's proposal to "carry-over" $311 in AC&I funding from the fiscal year 1982 budget to fiscal year 1983. The committee expects that all authorized and appropriated funds for fiscal year 1982 be expended promptly and according to the specific constructions of Congress. In this context

it is noted that in April 1982 the GAO determined that this carryover was an unlawful deferral of $216.5 million.

As a result of recent frustration with Coast Guard underfunding and lack of support within the administration, various supporters of the Coast Guard in Congress and out have proposed that the Coast Guard be transferred to the Department of Defense. This committee joined the Commandant of the Coast Guard John B. Hayes, as well as many other long-term supporters of the Coast Guard in opposing any such transfer from the Department of Transportation. The Coast Guard, while performing a vital military readiness mission, performs many other missions, particularly law enforcement where the Coast Guard, as a service separate from the Department of Defense, can carry out mandated fisheries, drug and immigration enforcement without disturbing the foreign relations of the United States and affected nations.

In preparation for the fiscal years 1983 and 1984 reauthorization hearings, the committee supplemented the 1980 study by the General Accounting Office, with a study by the Congressional Research Service prepared at the request of Chairman Packwood. The purpose of this study is well described in the chairman's letter transmitting the study to his colleagues:

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., March 18, 1982.

DEAR COLLEAGUE: Over the past decade, the Senate Committee on Commerce, Science, and Transportation has delegated more and more duties to the U.S. Coast Guard. In light of these expanded missions and continued budgetary constraints, it is important that the Senate have available for its consideration an objective, in-depth analysis of the history of the Coast Guard, its current goals and missions, and options for the future. We did request such a study, and after a year of thorough research, the Congressional Research Service has completed its work. It is published by the committee for the benefit of the Senate at large.

Recently, the President established a task force on drugs headed by Vice President Bush. The basic focus of this task force has been on curbing the illegal importation of drugs, primarily along the gulf and southeastern coasts. The Coast Guard is playing a lead role in this effort, while maintaining its presence as the enforcer of the Fisheries Conservation and Management Act, and fulfilling its traditional and fundamental mission: search and rescue. With increased industrial, commercial, and recreational use of the coastline and inland waters, these responsibilities loom ever-larger for the Coast Guard.

As the committee and the Senate move forward to review the role and missions of the Coast Guard, and the budgetary impact of improving the Coast Guard's physical plant, this study should prove to be an invaluable asset.

Cordially,

BOB PACKWOOD, *Chairman.*

The basic conclusion of this study was that the Coast Guard is undermanned, underfunded, and underequipped to perform the con-

tinually increasing missions and responsibilities created by congressional and executive action.

Prior to the March 26, 1982 hearing, committee members were encouraged by reports that White House National Security Adviser William Clark, writing "for the President", supported a strong and independent Coast Guard. Thus, the Coast Guard's roles and missions report issued in March 1982 calls for the continued independence of the Coast Guard within the Department of Transportation and continued activities in virtually all of its recognized missions.

Committee Consideration

On March 26, 1982, the committee held hearings chaired by Senator Packwood on S. 2252, an authorization bill for the Coast Guard for fiscal years 1983 and 1984. It is cosponsored by Senators Stevens, Gorton, and Cannon. The primary purpose of the hearing was to resolve the appropriate level of funding.

The committee received testimony from Deputy Secretary of Transportation Darrell M. Trent; the Commandant of the U.S. Coast Guard, Adm. John B. Hayes; Maj. Gen. J. Milnor Roberts, U.S. Army Retired, executive director of the Reserve Officers Association of the United States; John M. Rau, president of the Navy League; Richard Schwartz, executive director, Boat Owners Association of the United States; and Lt. Steven A. Smith, supervisor, Narcotics Section, South Carolina Law Enforcement Division. These witnesses were preceded by a panel of Senators voicing their concern over the state of the Coast Guard. In order of appearance, the Senators who testified and participated in the hearings were Senators George J. Mitchell and William Cohen of Maine; Senators Claiborne Pell and John Chafee of Rhode Island; and Senator Christopher Dodd of Connecticut. Statements of Senator Paul Sarbanes of Maryland and Senator Lloyd Bentsen of Texas were submitted for the hearing record.

As a result of the hearings and of the committee's recent Congressional Research Service study, the Commerce Committee is convinced that the Coast Guard is continuing to be called upon to perform an increasing number of missions with fewer and fewer resources, and that the administration's proposed fiscal year 1983 budget is inadequate to reverse deterioration of the Coast Guard's capabilities.

In addition to the well-established increase in legislative mandates, the administration itself has sought to increase Coast Guard responsibilities. These are most noticeable in a drug enforcement effort under the task force on drugs headed by Vice President Bush. Also, the Haitian Interdiction program developed by the administration has demanded many men and vessel hours. These requirements have caused the Coast Guard to further diminish its performance in its other missions, in which it has already been strained beyond reasonable limits.

The following chart provides a comparison of original Coast Guard budget requests for fiscal year 1983, the administration's fiscal year 1983 request, fiscal year 1982 authorizations and appropriations, and S. 2252.

COAST GUARD BUDGET COMPARISONS

[In millions of dollars, fiscal years]

Functions authorized by Commerce Committee	Internal administration proposals		1983 administration request	Final 1982 appropriation	Senate Commerce Committee			
	USCG request to DOT	DOT request to OMB			Enacted 1982 authorization	S. 2252 1983 authorization	Administration	S. 2252 1984 authorization
Operation and maintenance	1,842	1,604	1,510	1,356	1,405	1,700	+190	2,000
Acquisition and construction	670	396	19	694	537	550	+531	650
Retired pay[1]	336	336	336	279	[1] 279	336	----------	396
Research and development	31	15	15	18	30	29	+14	32
Bridges	20	0	8	8	18	0	−8	0
Total	2,899	2,351	1,882	2,345	2,269	2,615	+727	3,078
Personnel (people)	41,500	----------	36,677	----------	42,224	41,500	+4,823	41,500

[1] To be authorized by Commerce Committee for the first time in 1983.

The basic goal of the committee is to provide adequate funding to allow the Coast Guard to rapidly revitalize its fiscal fleet while providing sufficient O&M funding and manpower levels to allow the Coast Guard to function efficiently.

During the course of the hearing, it became abundantly clear that if the Coast Guard is to perform adequately, the committee and Congress must provide substantially increased funding beyond that proposed by the administration. Thus, the committee has rejected the decrease in funding for A.C. & I. and manpower ceilings proposed by the administration. Perhaps the most valuable testimony received during the hearing was Admiral Hayes' response to Senator Packwood's closing question:

> Senator PACKWOOD. In your judgment, is the request from the Administration sufficient for the Coast Guard to well carry out all of the functions that we impose upon it?
> Admiral HAYES. No, sir.

The committee feels that the numerous reports by the Congressional Research Service, the Department of Transportation, and the General Accounting Office, the testimony received during the March hearing, and the almost daily reports of the impact of fiscally motivated Coast Guard cuts justify the passage of S. 2522, which constitutes a $727 million increase over the administration's request of $1.89 billion.

This conclusion was repeated by virtually every witness. Testimony repeated the oftcited facts and figures of the Coast Guard's demise, including the average age of the fleet, the overtime workloads, and decreasing numbers of search and rescue responses, for example. Other testimony related from personal experience the observations of the witnesses as to the impact of insufficient funding on morale within the Coast Guard. Testimony of the five Senators who appeared before the committee focused on the national impact of a deteriorating Coast Guard. Testimony was also given relating to detrimental impact on society of its inability to meet drug enforcement goals.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget

Act of 1974, the committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 13, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2252, the Coast Guard Authorization Act for 1983 and 1984.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

APRIL 13, 1982.

1. Bill number: S. 2252.

2. Bill title: Coast Guard Authorization Act for 1983 and 1984.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, March 29, 1982.

4. Bill purpose: This bill authorizes to be appropriated $1.7 billion for 1983 atnd $2.0 billion for 1984 for Coast Guard operating expenses, $550 million for 1983 and $650 million for 1984 for acquisition, construction, and improvement activities, and $29 million for 1983 and $32 million for 1984 for research, development, test, and evaluation activities. In addition, the bill authorizes $336 million for 1983 and $396 million for 1984 for retired pay and payments of medical care of retired personnel.

The bill authorizes a level of 41,500 active duty personnel, 5,484 civilian personnel, and 5,471 military training students in fiscal years 1983 and 1984.

The 1983 authorization level of $2.615 billion represents a 10 percent increase over the 1982 funding level (to date) and an increase of $735 million (or 39 percent) over the President's 1983 request.

5. Cost estimate:

	Millions
Authorization level:	
Fiscal year:	
1983	$2,615
1984	3,078
1985	------
1986	------
1987	------
Estimated outlays:	
Fiscal year:	
1983	1,831
1984	2,546
1985	731
1986	394
1987	137

Including outlays from prior years' funding enacted to date, total fiscal year 1983 outlays for these programs of the Coast Guard will be $2,477 million, assuming the funding level authorized in this bill. Fiscal year 1984 total outlays for these programs are estimated to be $2,900 million.

The costs of this bill fall within budget function 400.

6. Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized for fiscal years 1983 and 1984 will be appropriated. The authorization levels are those specified in the bill and are composed of the amounts listed above. To estimate outlays, disbursement rates based on recent historical experience were applied to each of the line item authorization levels.

7. Estimate comparison: The Administration has estimated that total $183 outlays for these programs will be $2,129 million, assuming appropriation of the $1,880 million requested by the President.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has assessed regulatory impact of the legislation. S. 2252, as reported, would authorize appropriations for the activities of the Coast Guard for fiscal years 1983 and 1984, and will make certain minor changes in other laws relating to Coast Guard management. It is foreseen that the bill will have certain regulatory impact, resulting from the committee's desire to reduce expenditures of the Coast Guard in carrying out its aids-to-navigation responsibilities. Under section 5 of S. 2252, the Coast Guard is authorized to contract with private persons to establish, maintain, or operate aids-to-navigation, and to report to Congress evaluating such a program. Should the Coast Guard begin to delegate its responsibilities in this area, standards of performance will have to be established. However, the committee anticipates that the time and expense of developing these contractor standards and reporting to Congress will be outweighed by the benefits of budgetary, manpower, and equipment savings to the Coast Guard resulting from delegation of duties. Section 9 of S. 2252 eliminates two annual reports to Congress currently mandated by statute. The elimination of this requirement will decrease Federal paperwork and associated costs. The committee has determined that the bill will have no additional direct regulatory impact nor will the changes in existing law substantially increase or diminish any present regulatory responsibilities of the Coast Guard, nor increase or decrease existing Federal regulation or paperwork.

SECTION-BY-SECTION ANALYSIS

Section 1

Breaking with tradition, both the Commerce Committee and the House Coast Guard Subucommittee have determined that a 2-year

authorization would best serve the interests of the members to assure a strong, independent Coast Guard.

Thus, S. 2252 authorizes appropriations for fiscal years 1983 and 1984. The purpose is to provide the Coast Guard, Department of Transportation, and the OMB with guidelines for multi-year budgetary and procurement planning.

The committee plans to hold oversight hearings on the Coast Guard annually, and reserves the right to amend earlier Coast Guard authorization acts as needed annually.

Section 2

This section authorizes appropriations in four accounts: Operations and maintenance; acquisition, construction, and improvement; research and development; and retired pay. In past years, the committee has also authorized appropriations for the bridges account. However, under the current austere fiscal circumstances, it has been decided not to authorize such funding for the account.

The bridges account traditionally funds the Coast Guard's bridge inspection and improvement program through the Truman-Hobbs Act. There is no question that a large number of bridges, private and public, require alterations for rebuilding. However, in the past, Congress has been hesitant to provide the necessary funds and the selection of those bridges to be rebuilt at Federal expense under this program has been severely limited in number, and largely political in nature. In addition, under the Truman-Hobbs Act, the Coast Guard is obligated to inspect bridges regardless of whether they are still over or near navigable waterways. As a result, the Coast Guard often has traveled far afield to inspect bridges which are nowhere near navigable waterways. The committee believes that this is not the proper function of the Coast Guard. However, the committee also believes that to completely dismantle the Truman-Hobbs program, without a thorough investigation of whether the replacement program is necessary, would be premature. For this reason, the committee has chosen to authorize no funding for the program in fiscal years 1983 and 1984 without dismantling the program. The committee plans to determine in the future the validity of the Truman-Hobbs Act and the Coast Guard's continued role in the bridge inspection and alteration program.

(*a*) *Operations and maintenance* (*O. & M.*)—For operating and maintaining the Coast Guard, the committee authorizes $1.7 million for fiscal year 1983 and $2 billion for fiscal year 1984. This is the largest account in the total Coast Guard budget, accounting for 82 percent of the total active-duty budget. The amount authorized is an increase of $189,647,000 over the administration's request. The following chart compares the proposed O. & M. budgets of the Coast Guard, Department of Transportation, and the final administration request to Congress.

U.S. COAST GUARD—OPERATING EXPENSES

[In thousands of dollars]

	USCG request to OST "B" level [1]	USCG request to OST "C" level [2]	Transportation Department request to OMB	President's budget
Operating expenses:				
Search and rescue	440, 544	400, 670	408, 115	402, 816
Aids to navigation	405, 723	367, 376	384, 458	378, 415
Marine safety	210, 629	192, 146	176, 063	178, 286
Marine environmental protection	137, 790	117, 409	117, 453	117, 254
Enforcement of laws and treaties	364, 131	322, 660	333, 843	319, 175
Marine science/polar operations	81, 577	73, 087	74, 046	46, 040
Military readiness	73, 099	66, 070	68, 868	68, 367
Total	1, 713, 493	1, 539, 418	1, 562, 846	1, 510, 353
Total (adjusted) [3]	1, 842, 446	1, 668, 371	1, 693, 799	1, 510, 353
Reserve training	54, 816	52, 000	47, 100	50, 094
Total (adjusted) [4]	60, 316	57, 500	52, 600	50, 094

[1] "Nondepletion" budget—Maintains current output with stable capital plant and personnel force.
[2] Depletion budget—Strives for current output with deteriorating plant and personnel force.
[3] Restated to include base transfer from PHS ($35,500,000) and pay raise requirements.
[4] Restated to reflect pay raise requirements.

(*b*) *Acquisition, construction and improvement (A.C. & I.)*—Subsection (b) of section 2 authorizes $550 million for necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto. This is essential to permit the continuation of multi-year vessel, aircraft, and shore facility replacements and improvements while commencing a number of new and essential programs.

The committee rejects the administration's proposal that $19 million be authorized for A.C. & I. in fiscal year 1983. The A.C. & I. budget has not been that low since the 1950's. This committee rejects the OMB argument that combined with the $311 million being "carried over" from the fiscal year 1982 budget, this provides $330 million for A.C. & I. This is clearly contrary to congressional intent to rapidly begin renovating the Coast Guard's overworked fleet. Congressional support is not diminished this year. S. 2252 calls for $550 million in A.C. & I. to be expended during fiscal year 1983, and $650 million for fiscal year 1984.

It is the committee's intention that with the substantial increase in A.C. & I. funding made possible by both the fiscal year 1982 authorization appropriation and the expected continued high level of funding in fiscal year 1983 and beyond. The Coast Guard will improve and increase its physical plant, rather than reduce it as was announced in January of 1982. The committee points out that the fiscal year 1982 USCG authorization bill directs the Coast Guard to station helicopters at Newport, Oreg., Cordova, Alaska, and Charleston, S.C., and notes that this direction should be carried out as soon as possible.

The committee is deeply concerned that the Coast Guard intends to reallocate certain vessels in its already overburdened sea-going fleet to assist in drug enforcement missions, while failing to replace those reallocated vessels at their present station. An example of one such vessel is the *Citrus*. Although over-aged and outmoded, it is vital to current fisheries enforcement and search and rescue missions in the area where it is currently stationed.

The decommissioning of the Cutter *Campbell* on April 1, 1982, provides another illustration. Decommissioning of the *Campbell* without immediate replacement by a cutter at Port Angeles has resulted in, and will continue to result in, the loss of vital Coast Guard services which the *Campbell* has performed for the northwest, including search and rescue, military preparedness, marine science, and enforcement of laws relating to foreign fishing.

The committee therefore directs that a Coast Guard cutter, to replace the services performed by the *Campbell*, shall be immediately located at Port Angeles, and that a cutter shall be continuously located at Port Angeles, Wash.

A third example is the *Whitebush*, an aids-to-navigation vessel now stationed in Astoria, Oreg. This vessel serves busy and often dangerous navigation routes which cannot be safely maintained without its services. Thus, the committee believes it should remain on station in Astoria.

The committee endorses the list of equipment which the Appropriations Committee has directed the Coast Guard to acquire:

Capital plant financial plan for $300 million provided by the Department of Defense appropriation bill, 1982

Item	*Amount (millions)*
6 high performance surface craft	$30.0
Support facility for high performance surface craft	9.6
8 140 to 160 ft. patrol craft	56.0
Support facility for 140 to 160 ft. patrol craft	27.0
Fleet renovation and maintenance (FRAM)—one 378 ft. high endurance cutter (WHEC)	27.5
Forward looking infra-red (FLIR) for short range recovery (SRR) helicopters	25.2
Procurement in lieu of conversion (PILOC) 4 long range search aircraft (HC–130)	55.3
Procure rigid hull inflatables	8.0
Shipboard equipment modernization	7.0
Aircraft equipment modernization	6.5
2 seagoing buoy tenders (WLB) service life extension project (SLEP)	18.0
7th District—Command and Control Center	10.0
Communications station Kodiak equipment improvements	8.9
A.C. & I. administrative costs[1]	11.0
Total	300.0

[1] A.C. & I. administrative costs include costs for fiscal year 1982 and fiscal year 1983 only. Costs beyond fiscal year 1983 to be included in normal budget requests.

The committee expects the Coast Guard to begin its procurement process immediately, including all $684 million appropriated in the A.C. & I. budget for fiscal year 1982. The committee also directs the Coast Guard to purchase "off-the-shelf" equipment where feasible, rather than special specification equipment. The goal is to promptly and economically replace the aging fleet. In this vein, the committee believes the Coast Guard should procure smaller, less expensive, more quickly available ships when possible.

(*c*) *Research and development* (*R. & D.*).—Research and development is another account in which the committee significantly differs from the administration's request. Its plans to close down the Coast Guard's only R. & D. center at Avery Point near Groton, Conn., have been recently and expressly rejected by this committee and the funding

for R. & D. in S. 2252 is intended to allow the continued operation of that center. The amount authorized is $29 million for fiscal year 1983, and $32 million for fiscal year 1984.

(*d*) *Retired pay.*—In the area of retired pay, the committee has chosen to specifically authorize appropriations for the first time. In previous years, this program, which was originally authorized by the Commerce Committee, was not authorized on an annual basis, since payments for retirement and medical benefits were required by law. As the Senate Committee responsible for these expenditures, however the committee feels an obligation to annually review the retired pay program and to include this account in its annual Coast Guard authorization. The amount authorized for fiscal year 1983 is $336 million, for fiscal year 1984 $396 million. The fiscal year 1983 figure is equal to that proposed by the administration and the fiscal year 1984 figure is subject to revision next year.

Section 3

This section authorizes an active duty military personnel level of 41,500 in fiscal years 1983 and 1984 which is slightly less than last year's authorized level but above the fiscal year 1982 actual strength. This section also establishes a floor of 5,484 civilian personnel, as was done last year.

Section 4

Student-year levels for recruit and special training, for flight training, for professional training in military and civilian institutions and for officer acquisition are authorized at the same levels authorized for fiscal year 1982.

Section 5

This section permits the Coast Guard to contract out its aids-to-navigation activities. Moreover, it calls for a report to Congress on the cost-effectiveness of such a contracting approach as well as the implications of increasing the ratio of civilian to military personnel in the aids-to-navigation program.

Section 6

Last year's authorization legislation enabled the Coast Guard to shift certain of its inspection responsibilities to the American Bureau of Shipping or other American shipping classification societies. This provision requires the private organizations to keep and maintain records related to the inspections and examinations it performs in accordance with agreement with the Coast Guard.

Section 7

Section 7(a) amends title 14, United States Code, to provide that a Coast Guard vice admiral's precedence on the active duty promotion list, date of rank, grade, pay, and allowances shall not be interrupted by the termination of an appointment in one vice admiral position to take an appointment in another vice admiral position. Presently, vice admirals in the Coast Guard only hold that grade while they serve as vice commandant (14 U.S.C. 47) or as area commanders (14 U.S.C. 50). This proposal would avert a potential reversion to the grade of rear admiral, with consequent loss of precedence, when such an officer is reassigned and in transit from one area commander assignment to another.

Section 7(b) repeals section 368 of title 14, United States Code. This provision, which permits the avoidance of an enlistment through the age of 20 of Coast Guard members who enlisted without written parental consent, is in conflict with the comparable statute governing the other armed forces which allows avoidance of enlistment only through age 17 (10 U.S.C. 1170). Repeal of 14 U.S.C. 368 would result in the application of the same law to the discharge of underage enlistees in all branches of the armed forces.

Section 7(c) amends title 14, United States Code, to allow the commandant to provide medical and dental care to personnel otherwise entitled to that care by law or regulation. Addition of this authority will allow the Coast Guard to seek appropriations (in accordance with sec. 5 of Public Law 94–406 (Sept. 10, 1976) (14 U.S.C. 656 note)) formerly included within the Department of Health and Human Services' budget for Coast Guard medical and dental care, which are expected to be transferred to the Coast Guard. No new entitlements are created by this subsection.

Section 8

This section deletes two reporting requirements. The first involves an annual report on the leasing of certain housing facilities for Coast Guard personnel, required by 14 U.S.C. 475(e) and (f). The Coast Guard was granted authority for leasing housing facilities under section 475 in 1970 and the program has operated since that time without difficulty. Elimination of this annual report will not impede Congress's ability to monitor the program.

The second report to be eliminated is an annual report on the administration of the Tank Vessel Act. Each report takes 300 to 350 personnel work hours to develop, but provides little useful information that is not duplicated elsewhere.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14, UNITED STATES CODE

New Section 52 of Title 14

§ 52. Vice admirals, continuity of grade

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.

Section 81 of Title 14

§ 81. Aids to navigation authorized

In order to aid navigation and to prevent disasters, collisions, and wrecks of vessels and aircraft, the Coast Guard may establish, maintain, and operate:

(1) aids to maritime navigation required to serve the needs of the armed forces or of the commerce of the United States;

(2) aids to air navigation required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense and as requested by any of those officials; and

(3) electronic aids to navigation systems (a) required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or any department within the Department of Defense; or (b) required to serve the needs of the maritime commerce of the United States; or (c) required to serve the needs of the air commerce of the United States as requested by the Administrator of the Federal Aviation Administration.

These aids to navigation other than electronic aids to navigation systems shall be established and operated only within the United States, the waters above the Continental Shelf, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the United States are or may be located. *The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.*

SECTION 84 OF TITLE 14

§ 84. Interference with aids to navigation; penalty

It shall be unlawful for any person, or public body, or instrumentality, excluding the armed forces, to remove, change the location of, obstruct, wilfully damage, make fast to, or interfere with any aid to navigation established, installed, operated, or maintained by the Coast Guard pursuant to section 81 of this title, or with any aid to navigation lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of this title, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein. *The preceding sentence shall not apply to any person, public body, or instrumentality acting pursuant to a contract under section 81 of this title or pursuant to authority obtained under section 83 of this title.* Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $500 for each offense. Each day during which such violation shall continue shall be considered as a new offense.

SECTION 93 OF TITLE 14

§ 93. Commandant; general powers

For the purpose of executing the duties and functions of the Coast Guard, the Commandant may:

(a)–(o) * * *

(p) establish, install, abandon, re-establish, re-route, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, appartus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment; [and]

(q) establish, install, abandon, reestablish, change the location of, operate, maintain, and repair radio transmitting and receiving stations[.]; *and*

(*r*) *provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.*

SECTION 368 OF TITLE 14

[§ 368. Discharge in case of under-age enlistment

[Upon presentation of satisfactory evidence as to his age and upon application for discharge by his parent or guardian presented to the Coast Guard within ninety days after the date of his enlistment, any man enlisted in the Coast Guard under twenty-one years of age who was enlisted without the written consent of his parent or guardian, if any, shall be discharged by reason of minority.]

SECTION 475 OF TITLE 14

§ 475. Leasing and hiring of quarters; rental of inadequate housing

(a)—(d) * * *

[(e) The Secretary shall annually, not later than April 1, file with the Speaker of the House of Representatives and the President of the Senate a complete report of the utilization of the authority granted in subsections (a), (b), and (d) during the preceding calendar year.

(f) The authority conferred by subsection (a), (b), (c), or (d) may not be utilized after April 1, 1973, unless all reports required by subsection (e) have been filed with the Congress.]

REVISED STATUTES OF THE UNITED STATES

SECTION 4417a OF THE REVISED STATUTES (46 U.S.C. 475a)

Sec. 4417a.

(1)—(18) * * *

[(19) Report.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

(A) a report on the administration of this section during the preceding calendar year;

(B) a summary of inspection and enforcement activities during the preceding calendar year; and

(C) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.]

ACT OF JULY 5, 1984

SECTION 8 OF THAT ACT (46 U.S.C. 9)

Sec. 8.

(a)—(c) * * *

(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination, and shall permit access to such files at all reasonable times to the Coast Guard or any agent designated in writing by the Coast Guard.

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